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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

TRUSTEES OF THE NEVADA RESORT  
ASSOCIATION-INTERNATIONAL  
ALLIANCE OF THEATRICAL STAGE  
EMPLOYEES AND MOVING PICTURE  
MACHINE OPERATORS OF THE  
UNITED STATES AND CANADA  
LOCAL 720 PENSION TRUST,

Plaintiffs,

vs.

GRASSWOOD PARTNERS, INC., a  
California corporation; DALE STEVENS,  
an individual; ANNE STEVENS, an  
individual; OLD GLORY ASSET  
MANAGEMENT, LLC., a Pennsylvania  
limited liability corporation; OPTIQUE  
CAPITAL MANAGEMENT, INC., a  
Wisconsin corporation; MESSNER &  
SMITH THEME/VALUE INVESTMENT  
MANAGEMENT, LTD., a California  
corporation, MESSNER & SMITH, L.L.C.,  
a California limited liability company,  
MESSNER AND SMITH SMALL/MID  
PARTNERS, L.P., a California limited  
partnership, and MESSNER SMITH &  
ASSOCIATES, LLC, a California limited  
liability company

Defendants.

Case No. 2:11-cv-00044-RLH-RJJ

**MOTION TO SET ASIDE DEFAULTS  
AGAINST DEFENDANTS MESSNER &  
SMITH THEME/VALUE  
INVESTMENT MANAGEMENT, LTD,  
MESSNER & SMITH, L.L.C.,  
MESSNER AND SMITH SMALL/MID  
PARTNERS, L.P, AND MESSNER  
SMITH & ASSOCIATES, LLC**

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Pursuant to Federal Rule of Civil Procedure 55(c), Plaintiffs, the Trustees of the Nevada Resort Association-International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada Local 720 Pension Trust; Trustees of the Nevada Resort Association-International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada Local 720 Wage Disability Trust; and Trustees of the Nevada Resort Association-International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada Local 720 Apprentice and Journeyman Training and Education Trust (collectively referred to as “Trust Funds”) move the Court to set aside the Defaults entered against Defendants, Messner & Smith Theme/Value Investment Management, LTD., a California corporation, Messner & Smith, L.L.C., a California limited liability company, Messner and Smith Small/Mid Partners, L.P., a California limited partnership, and Messner Smith & Associates, LLC, a California limited liability company (collectively operating as a single unit and referred to herein as “M&S”).

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1 M&S filed its Answer on October 21, 2011.<sup>1</sup> The Clerk entered the Defaults on the same day.<sup>2</sup>  
2 Plaintiffs' request the Court to enter an Order setting aside these Defaults, as it is clear M&S  
3 intends to defend this action.

4 Further, in light of M&S's late entry into the case, Plaintiffs request that the Court direct  
5 the parties to confer regarding a new discovery schedule resetting the current deadlines to  
6 accommodate this development.  
7

8 Dated: October 26, 2011

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Aaron Fricke

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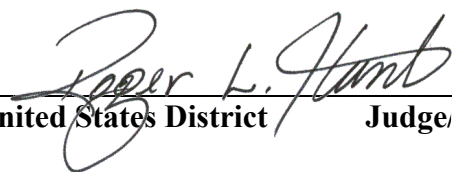
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*Attorneys for Plaintiffs*

17 **ORDER**

18 **IT IS SO ORDERED.**

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20   
21 **United States District Judge**

22  
23 **Dated:** November 15, 2011

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27  
28 <sup>1</sup> ECF No. 54

<sup>2</sup> ECF No. 55

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on this 26th day of October, 2011, I served a true copy of the foregoing **MOTION TO SET ASIDE DEFAULTS AGAINST DEFENDANTS MESSNER & SMITH THEME/VALUE INVESTMENT MANAGEMENT, LTD, MESSNER & SMITH, L.L.C., MESSNER AND SMITH SMALL/MID PARTNERS, L.P, AND MESSNER SMITH & ASSOCIATES, LLC** upon:

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☒ a. **BY CM/ECF System**

**I declare under penalty of perjury that the foregoing is true and correct.**

/s/ Ebony Davis

An Employee of Brownstein Hyatt Farber Schreck, LLP